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14 Attorneys for Defendants
BAYER CORPORATION; BAYER HEALTHCARE LLC;
15 BAYER AG; BAYER SCHERING PHARMA AG

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 ONYX PHARMACEUTICALS, INC.,

20 Plaintiff,

21 v.

22 BAYER CORPORATION, et al.,

23 Defendants.
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Case No. CV 09 2145 MHP

**STIPULATION AND ~~[PROPOSED]~~
ORDER EXTENDING
MEDIATION DEADLINE AND
RESCHEDULING STATUS
CONFERENCE**

1 TO THE COURT AND ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 IT IS HEREBY STIPULATED by and between plaintiff Onyx Pharmaceuticals, Inc.
3 (“Onyx”) and defendants Bayer Corporation, Bayer AG, Bayer HealthCare LLC and Bayer
4 Schering Pharma AG (collectively, “Bayer”) as follows:

5 WHEREAS, the Stipulation and Order Selecting ADR Process filed August 11, 2009,
6 provides that mediation shall be completed by February 26, 2010;

7 WHEREAS, the parties had been scheduled to conduct mediation before Anthony Piazza
8 in San Francisco on January 19, 2010;

9 WHEREAS, Hans Bishop, the former President of Hematology/Cardiology and
10 Executive Vice President of Bayer HealthCare LLC, was scheduled to be Bayer’s lead negotiator
11 at the mediation, but unexpectedly resigned from Bayer in December 2009;

12 WHEREAS, the parties had anticipated that the documents most relevant to the merits of
13 this litigation would be produced by the end of December 2009;

14 WHEREAS, the parties have been producing documents on a rolling basis and continue
15 to produce documents as quickly as possible, but now anticipate that the documents most
16 relevant to the merits of this litigation will not be produced until early in 2010. To date, Bayer
17 and Onyx have produced approximately 103,000 and 44,000 pages of documents, respectively;

18 WHEREAS, additional time is needed to afford Bayer time to identify a new lead
19 negotiator and to prepare that individual for the mediation;

20 WHEREAS, additional time is needed to allow the parties to complete production of the
21 documents most relevant to the merits of the litigation — and to review the other side’s
22 production of such documents — to allow the parties to make more informed decisions regarding
23 the mediation, making the mediation more productive;

24 WHEREAS, the parties have agreed to reschedule the mediation to May 13, 2010;

25 WHEREAS, in the hope that the Court would accommodate this request, the parties have
26 already reserved that date to mediate with Mr. Piazza;

1 WHEREAS, at the August 31, 2009 Initial Case Management Conference, the Court
2 ordered the parties to attend a further status conference on March 8, 2010 — the second Monday
3 following the original February 26, 2010 mediation cut-off date; and

4 WHEREAS, if the Court accommodates the parties' requested change in the mediation
5 date, the parties agree that it would be most productive to reschedule the status conference to a
6 date shortly after the new mediation date;

7 THEREFORE, the parties hereby stipulate and agree, by and through counsel, to the
8 entry of an order as follows:

9 1. The mediation, previously scheduled for January 19, 2010, will take place on
10 May 13, 2010;

11 2. The Order Selecting ADR Process is amended to reflect a new ADR deadline of
12 May 13, 2010;

13 3. The post-mediation Status Conference, currently scheduled for March 8, 2010, is
14 hereby rescheduled to May 17, 2010 at 3:00 p.m., or at the Court's first convenient time thereafter.

15
16 IT IS SO STIPULATED.

17 Dated: January 8, 2010



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28 By: /s/ Lawrence R. Katzin

LAWRENCE R. KATZIN

Attorneys for Defendants
BAYER CORPORATION,
BAYER AG, BAYER
HEALTHCARE LLC, AND BAYER
SCHERING PHARMA AG

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Dated: January 8, 2010

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GENERAL ORDER 45 ATTESTATION

In accordance with General Order 45, concurrence in the filing of this document has been obtained from each of the signatories and I shall maintain records to support this concurrence for subsequent production for the court if so ordered or for inspection upon request by a party.

/s/ Lawrence R. Katzin
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